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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/665,245	09/18/2000	Ashot Serobian	380.42	4388

7590

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EXAMINER

REDDICK, MARIE L

ART UNIT

PAPER NUMBER

1713

DATE MAILED: 06/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/665,245

Applicant(s)

SEROBIAN, ASHOT

Examiner

Judy M. Reddick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

**Claim Rejections - 35 USC § 112**

1. ***The following is a quotation of the first paragraph of 35 U.S.C. 112:***

***The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.***

2. ***Claims 4 and 5 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. As far as the Examiner can tell, no support can be found for the limitation "the acrylic polymer comprises about 0.6 to about 2.5% by weight of the polishing composition" per claim 4 and "the acrylic polymer comprises from about 1.3% to about 1.8% by weight of the polishing composition" per claim 5 and, as such, this engenders a New Matter situation. Perhaps applicant intends "acrylic resin".***

**Claim Rejections - 35 USC § 103**

3. ***The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:***

***(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.***

4. *The factual inquiries set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:*

1. *Determining the scope and contents of the prior art.*
2. *Ascertaining the differences between the prior art and the claims at issue.*
3. *Resolving the level of ordinary skill in the pertinent art.*
4. *Considering objective evidence present in the application indicating obviousness or nonobviousness.*

5. *Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lohr et al'333 or Lohr et al(EP'281) in combination with Varga et al and further in combination with Roberts(U.S. 4,959,113).*

*Lohr et al'333 or Lohr et al(EP'281) in combination with Varga et al as already discussed in the previous Office Action(paper no. 5, 11/02/01, paragraph no. 7) and applied to claims 1-5. Further, the disclosure of each of Lohr et al differs basically from the claimed invention and per the non-express recognition of titanium dioxide as an abrasive. However, Roberts teaches that conventional aqueous polishing compositions contain known abrasives such as aluminum oxide, silicon dioxide, titanium dioxide, etc.(see, the Abstract, the paragraph bridging cols. 1 and 2 and col. 2, lines 7-12). Therefore, one having ordinary skill in the art would have found it obvious, on its face, to use titanium dioxide in addition to or in lieu of the silica abrasive or alumina abrasive of each of Lohr et al, based on their disclosed equivalency per Robert and with a reasonable expectation of success. Criticality for such, clearly commensurate in scope with the claims, not having been demonstrated on this record.*

**Response to Arguments**

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6. *Applicant's arguments filed 04/11/02 have been fully considered but they are not persuasive.*

*Although Counsel argues otherwise, the "waxes" of Lohr et al are optional(see, e.g., the Abstracts of each of Lohr et al. Counsel is reminded that a reference is evaluated, as a whole, for what it fairly teaches and is in no way limited to the working examples. The fact that the composition of Varga et al houses a wax component is immaterial since Varga et al is relied upon for teaching the commonality of using alcoholic co-solvents in formulating high-gloss polishing compositions.*

*While Counsel argues that the use of titanium dioxide presents a distinct level of gloss and durability, it is simply not clear from the evidence of record that it is, in fact, the titanium dioxide that provides these results. Even if it turns out that the Examiner has somehow missed the boat, the claims are simply not limited to where any improvement might have been shown.*

#### **Conclusion**

7. *The prior art to Brancaleoni et al(U.S. 5,264,010) is cited as of interest in teaching that titanium oxide is a conventional abrasive used in polishing composition and is considered cumulative to the prior art supra.*

8. *Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).*

*A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until*


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*after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.*

*Any inquiry concerning this communication or earlier communications from the examiner should be directed to Judy M. Reddick whose telephone number is (703)308-4346. The examiner can normally be reached on Monday-Friday, 6:30 a.m.-3:00 p.m..*

*If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (703)308-2450. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9310 for regular communications and (703)892-9311 for After Final communications.*

*Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-8183.*

  
Judy M. Reddick  
Primary Examiner  
Art Unit 1713

JMR   
June 21, 2002